

## Part 2

### Economic Development Project Area Budget

#### **17C-3-201 Economic development project area budget -- Requirements for adopting -- Contesting the budget or procedure -- Time limit.**

- (1)
  - (a) If an agency anticipates funding all or a portion of a post-June 30, 1993 economic development project area plan with tax increment, the agency shall, subject to Section 17C-3-202, adopt a project area budget as provided in this part.
  - (b) An economic development project area budget adopted on or after March 30, 2009 shall specify:
    - (i) for a project area budget adopted on or after March 30, 2009:
      - (A) the project area funds collection period; and
      - (B) the percentage of tax increment the agency is authorized to receive from the project area under the project area budget; and
    - (ii) for a project area budget adopted on or after March 30, 2013, unless approval is obtained under Subsection 17C-1-402(4)(b)(vi)(C), the maximum cumulative dollar amount of tax increment that the agency may receive from the project area under the project area budget.
- (2) To adopt an economic development project area budget, the agency shall:
  - (a) prepare a proposed economic development project area budget;
  - (b) make a copy of the proposed project area budget available to the public at the agency's offices during normal business hours;
  - (c) provide notice of the budget hearing as required by Chapter 1, Part 8, Hearing and Notice Requirements;
  - (d) hold a public hearing on the proposed project area budget and, at that public hearing, allow public comment on:
    - (i) the proposed project area budget; and
    - (ii) whether the proposed project area budget should be revised, adopted, or rejected;
  - (e)
    - (i) if required under Subsection 17C-3-203(1), obtain the approval of the taxing entity committee on the proposed project area budget or a revised version of the proposed project area budget; or
    - (ii) if applicable, comply with the requirements of Subsection 17C-3-203(2);
  - (f) if approval of the taxing entity committee is required under Subsection (2)(e)(i), obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the taxing entity committee followed the appropriate procedures to approve the project area budget; and
  - (g) after the budget hearing, hold a board meeting in the same meeting as the public hearing or in a subsequent meeting to:
    - (i) consider comments made and information presented at the public hearing relating to the proposed project area budget; and
    - (ii) adopt by resolution the proposed project area budget, with any revisions, as the project area budget.
- (3)
  - (a) For a period of 30 days after the agency's adoption of the project area budget under Subsection (2)(g), any person may contest the project area budget or the procedure used

to adopt the project area budget if the budget or procedure fails to comply with applicable statutory requirements.

- (b) After the 30-day period under Subsection (3)(a) expires, a person may not contest:
- (i) the project area budget or procedure used by either the taxing entity committee or the agency to approve and adopt the project area budget;
  - (ii) a distribution of tax increment to the agency under the project area budget; or
  - (iii) the agency's use of tax increment under the project area budget.

Amended by Chapter 350, 2016 General Session

**17C-3-202 Part of tax increment funds in an economic development project area budget to be used for housing -- Waiver of requirement.**

- (1) This section applies only to an economic development project area budget adopted on or after May 1, 2000, but before March 30, 2009.
- (2)
- (a) Except as provided in Subsection (2)(b), each economic development project area budget adopted on or after May 1, 2000 but before March 30, 2009 that provides for more than \$100,000 of annual tax increment to be paid to the agency shall allocate at least 20% of the tax increment for housing as provided in Section 17C-1-412.
  - (b) The 20% requirement of Subsection (2)(a) may be waived:
    - (i) in part or whole by the mutual consent of the loan fund board and the taxing entity committee if they determine that 20% of tax increment is more than is needed to address the community's need for income targeted housing; or
    - (ii) in fifth and sixth class counties, by the taxing entity committee for economic development project area budgets adopted on or after May 1, 2002 but before March 30, 2009, if the economic development project area consists of an area without housing units.
- (3) An economic development project area budget not required under Subsection (2)(a) to allocate tax increment for housing may allocate 20% of tax increment payable to the agency over the life of the project area for housing as provided in Section 17C-1-412 if the project area budget is under a project area plan that is adopted on or after July 1, 1998.

Amended by Chapter 387, 2009 General Session

**17C-3-203 Consent of taxing entity committee required for economic development project area budget -- Exception.**

- (1)
- (a) Except as provided in Subsection (1)(b) and subject to Subsection (2), each agency shall obtain the consent of the taxing entity committee for each economic development project area budget under a post-June 30, 1993 economic development project area plan before the agency may collect any tax increment from the project area.
  - (b) For an economic development project area budget adopted from July 1, 1998 through May 1, 2000 that allocates 20% or more of the tax increment for housing as provided in Section 17C-1-412, an agency:
    - (i) need not obtain the consent of the taxing entity committee for the project area budget; and
    - (ii) may not receive any tax increment from all or part of the project area until after:
      - (A) the loan fund board has certified the project area budget as complying with the requirements of Section 17C-1-412; and
      - (B) the board has approved and adopted the project area budget by a two-thirds vote.

- (2)
- (a) Before a taxing entity committee may consent to an economic development project area budget adopted on or after May 1, 2000 that allocates 20% of tax increment for housing under Subsection 17C-3-202(2)(a) or (3), the agency shall:
    - (i) adopt a housing plan showing the uses for the housing funds; and
    - (ii) provide a copy of the housing plan to the taxing entity committee and the loan fund board.
  - (b) If an agency amends a housing plan prepared under Subsection (2)(a), the agency shall provide a copy of the amendment to the taxing entity committee and the loan fund board.

Amended by Chapter 350, 2016 General Session

**17C-3-204 Filing a copy of the economic development project area budget.**

Each agency adopting an economic development project area budget shall:

- (1) within 30 days after adopting the project area budget, file a copy of the project area budget with the auditor of the county in which the project area is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity affected by the agency's collection of tax increment under the project area budget; and
- (2) if the project area budget allocates tax increment for housing under Section 17C-1-412, file a copy of the project area budget with the loan fund board.

Enacted by Chapter 359, 2006 General Session

**17C-3-205 Amending an economic development project area budget.**

- (1) An agency may by resolution amend an economic development project area budget as provided in this section.
- (2) To amend an adopted economic development project area budget, the agency shall:
  - (a) advertise and hold one public hearing on the proposed amendment as provided in Subsection (3);
  - (b) if approval of the taxing entity committee was required for adoption of the original project area budget, obtain the approval of the taxing entity committee to the same extent that the agency was required to obtain the consent of the taxing entity committee for the project area budget as originally adopted;
  - (c) if approval of the taxing entity committee is required under Subsection (2)(b), obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the taxing entity committee followed the appropriate procedures to approve the project area budget; and
  - (d) adopt a resolution amending the project area budget.
- (3) The public hearing required under Subsection (2)(a) shall be conducted according to the procedures and requirements of Section 17C-3-201, except that if the amended project area budget proposes that the agency be paid a greater proportion of tax increment from a project area than was to be paid under the previous project area budget, the notice shall state the percentage paid under the previous project area budget and the percentage proposed under the amended project area budget.
- (4) If the removal of a parcel under Subsection 17C-3-109(4)(a)(ii) reduces the base taxable value of the project area, an agency may amend the project area budget to conform with the new base taxable value without:
  - (a) complying with Subsections (2)(a) and (3); and
  - (b) if applicable, obtaining taxing entity committee approval described in Subsection (2)(b).

- (5) If a proposed amendment is not adopted, the agency shall continue to operate under the previously adopted economic development project area budget without the proposed amendment.
- (6)
  - (a) A person may contest the agency's adoption of a budget amendment within 30 days after the day on which the agency adopts the amendment.
  - (b) A person who fails to contest a budget amendment under Subsection (6)(a):
    - (i) forfeits any claim against an agency's adoption of the amendment; and
    - (ii) may not contest:
      - (A) a distribution of tax increment to the agency under the budget amendment; or
      - (B) an agency's use of a tax increment under a budget amendment.

Amended by Chapter 350, 2016 General Session

**17C-3-206 Extending collection of tax increment under an economic development project area budget.**

- (1) An amendment or extension approved by a taxing entity or taxing entity committee before May 10, 2011, is not subject to this section.
- (2)
  - (a) An agency's collection of tax increment under an adopted economic development project area budget may be extended by:
    - (i) following the project area budget amendment procedures outlined in Section 17C-3-205; or
    - (ii) following the procedures outlined in this section.
  - (b) The base taxable value for an urban renewal project area budget may not be altered as a result of an extension under this section unless otherwise expressly provided for in an interlocal agreement adopted in accordance with Subsection (3)(a).
- (3) To extend under this section the agency's collection of tax increment from a taxing entity under a previously approved project area budget, the agency shall:
  - (a) obtain the approval of the taxing entity through an interlocal agreement;
  - (b)
    - (i) hold a public hearing on the proposed extension in accordance with Subsection 17C-2-201(2)(d) in the same manner as required for a proposed project area budget; and
    - (ii) provide notice of the hearing:
      - (A) as required by Chapter 1, Part 8, Hearing and Notice Requirements; and
      - (B) including the proposed period of extension of the project area budget; and
  - (c) after obtaining the approval of the taxing entity in accordance with Subsection (3)(a), at or after the public hearing, adopt a resolution approving the extension.
- (4) After the expiration of a project area budget, an agency may continue to receive tax increment from those taxing entities that have agreed to an extension through an interlocal agreement in accordance with Subsection (3)(a).
- (5)
  - (a) A person may contest the agency's adoption of a budget extension within 30 days after the day on which the agency adopts the resolution providing for the extension.
  - (b) A person who fails to contest a budget extension under Subsection (5)(a):
    - (i) shall forfeit any claim against the agency's adoption of the extension; and
    - (ii) may not contest:
      - (A) a distribution of tax increment to the agency under the budget, as extended; or
      - (B) an agency's use of tax increment under the budget, as extended.

Amended by Chapter 350, 2016 General Session